

# House File 475 - Introduced

HOUSE FILE 475

BY KELLEY

## A BILL FOR

1 An Act relating to alternate energy by allowing the  
2 establishment of community solar garden projects.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 476.1, Code 2015, is amended by adding  
2 the following new subsection:

3 NEW SUBSECTION. 5A. A community solar garden project  
4 established pursuant to section 476.49 shall not be regarded as  
5 a public utility for purposes of this chapter.

6 Sec. 2. Section 476.25, Code 2015, is amended by adding the  
7 following new unnumbered paragraph:

8 NEW UNNUMBERED PARAGRAPH. The furnishing of electricity  
9 pursuant to a community solar garden project under section  
10 476.49 shall not be considered an unnecessary duplication  
11 of electric utility facilities and shall not constitute a  
12 violation of this section.

13 Sec. 3. NEW SECTION. 476.49 Community solar garden  
14 projects.

15 1. *Definitions.* For purposes of this section, unless the  
16 context otherwise requires:

17 a. "*Community solar garden project*" means an electric  
18 generating facility with a nameplate generating capacity of  
19 two megawatts or less that generates electricity by means of a  
20 ground-mounted or roof-mounted solar photovoltaic device and  
21 that is comprised of a minimum of five subscribers who jointly  
22 share the beneficial use of the electricity generated by the  
23 project.

24 b. "*Subscriber*" means a retail customer of an electric  
25 utility subject to this division who owns a subscription and  
26 who has identified one or more physical locations to which the  
27 subscription shall be attributed or attached.

28 c. "*Subscription*" means a proportional interest in a  
29 community solar garden project, together with a proportional  
30 interest in any state or federal tax credits for which the  
31 facility associated with the project may be eligible.

32 2. *Program established.*

33 a. A community solar garden project may be established  
34 to encourage and enhance the ability of electric utility  
35 customers to participate in and derive benefit from solar

1 energy projects.

2     *b.* A community solar garden project established pursuant to  
3 this section shall be subject to the following requirements and  
4 specifications:

5     (1) A project may be established by an electric utility  
6 or any other for-profit or nonprofit entity or organization,  
7 including a subscriber organization whose sole purpose shall be  
8 beneficially owning and operating the project. Additionally,  
9 a project may be constructed, owned, and operated by a third  
10 party under contract with a subscriber organization and  
11 pursuant to a lease, sale-leaseback transaction, operating  
12 agreement, or other third-party ownership arrangement.

13     (2) Physical locations to which subscriptions are  
14 attributed or attached shall be located within the same county  
15 or municipality and within the same electric utility service  
16 area. Each subscription shall represent at least one kilowatt  
17 of the community solar garden project's generating capacity and  
18 shall supply no more than one hundred twenty percent of the  
19 average annual consumption of electricity by each subscriber  
20 at the premises to which the subscription is attributed or  
21 attached. Subscriptions may be transferred or assigned to a  
22 subscriber organization or to any person or entity otherwise  
23 qualifying as a subscriber pursuant to this section, and may  
24 be continued following relocation of a subscriber to another  
25 location within the same county or municipality and electric  
26 utility service area otherwise meeting the requirements of this  
27 section. A subscription following relocation may be subject  
28 to adjustment to reflect any differences between the new and  
29 previous premises' electricity usage rate. The board shall  
30 determine transfer, assignment, and relocation criteria by  
31 rule.

32     (3) Electricity generated pursuant to the project shall  
33 be aggregated and then proportionately allocated to each  
34 subscriber. Excess electricity generated by the project not  
35 utilized at the premises to which a subscription is attributed

1 or attached may be sold pursuant to a power purchase agreement  
2 entered into with the electric utility at the same rates  
3 applicable to alternate energy production facilities pursuant  
4 to section 476.43.

5 (4) Notwithstanding the maximum purchase and ownership  
6 restrictions contained in section 476.44, an electric utility  
7 subject to this division shall enter into one or more power  
8 purchase agreements with one or more projects to purchase a  
9 minimum of five hundred kilowatts of electricity annually. The  
10 board may by rule adjust this requirement on or after July 1,  
11 2018.

12 (5) Federal or state tax credits for which the community  
13 solar garden facility associated with the project qualifies  
14 shall be proportionately allocated to each subscriber.

15 3. *Rules.* The board shall adopt rules governing the  
16 establishment of community solar garden projects pursuant to  
17 this section.

18 EXPLANATION

19 The inclusion of this explanation does not constitute agreement with  
20 the explanation's substance by the members of the general assembly.

21 This bill allows the establishment of community solar garden  
22 projects.

23 The bill defines a "community solar garden project" to  
24 mean a facility with a nameplate generating capacity of two  
25 megawatts or less that generates electricity by means of a  
26 ground-mounted or roof-mounted solar photovoltaic device and  
27 that is comprised of a minimum of five subscribers who jointly  
28 share the beneficial use of the electricity generated by the  
29 project. The bill defines a "subscriber" to mean a retail  
30 customer of an electric utility who owns a subscription and  
31 who has identified one or more physical locations to which the  
32 subscription shall be attributed or attached. The bill defines  
33 a "subscription" to mean a proportional interest in a community  
34 solar garden project, together with a proportional interest  
35 in any tax credits for which the facility associated with the

1 project may be eligible.

2 The bill states that the objective of a project shall be to  
3 encourage and enhance the ability of public utility customers  
4 to participate in and derive benefit from solar energy  
5 projects.

6 Regarding project ownership, the bill provides that  
7 a project may be established by an electric or any other  
8 for-profit or nonprofit entity or organization, including a  
9 subscriber organization whose sole purpose is to beneficially  
10 own and operate the project. A project can also be  
11 constructed, owned, and operated by a third party under  
12 contract with a subscriber organization and pursuant to a  
13 lease, sale-leaseback transaction, operating agreement, or  
14 other third-party ownership arrangement.

15 The bill provides that physical locations to which  
16 subscriptions are attributed or attached must be located within  
17 the same county or municipality and within the same electric  
18 utility service area. The bill states that each subscription  
19 shall represent at least one kilowatt of a project's generating  
20 capacity and shall supply no more than 120 percent of the  
21 average annual consumption of electricity by each subscriber  
22 at the premises to which the subscription is attributed or  
23 attached. The bill authorizes the transfer, assignment, or  
24 relocation of subscriptions, under conditions to be determined  
25 by the board by rule.

26 The bill states that electricity generated pursuant to  
27 a project shall be aggregated and then proportionately  
28 allocated to each subscriber, and that excess electricity  
29 generated by the project not utilized at the premises to which  
30 a subscription is attributed may be sold pursuant to a power  
31 purchase agreement entered into with the electric utility  
32 at the same rates applicable to alternate energy production  
33 facilities pursuant to Code section 476.43.

34 The bill imposes purchase requirements on electric  
35 utilities. The bill states that an electric utility shall

1 enter into one or more power purchase agreements with one  
2 or more projects to purchase a minimum of 500 kilowatts of  
3 electricity annually. The bill provides that the board may by  
4 rule adjust this requirement on or after July 1, 2018, and that  
5 subscribers shall qualify for the federal and state tax credits  
6 for which the community solar garden facility qualifies on a  
7 proportionate basis.

8 The bill provides that a community solar garden project  
9 shall not be considered a public utility subject to the  
10 regulatory provisions of Code chapter 476, and that such a  
11 project does not violate provisions contained in Code chapter  
12 476 prohibiting the unnecessary duplication of electric utility  
13 facilities.